



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/595,428 | 11/02/2006 | David Bryant | CTCPCT001-4-US | 9322 |
| 74119 | 7590 | 10/24/2008 | | |
| Brownstein Hyatt Farber Schreck, LLP | | | EXAMINER | |
| 410 Seventeenth Street | | | NGUYEN, CHAUN | |
| Suite 2200 | | | | |
| Denver, CO 80202 | | | ART UNIT | PAPER NUMBER |
| | | | 2831 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 10/24/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/595,428 | Applicant(s) BRYANT, DAVID | |
| | Examiner Chau N. Nguyen | Art Unit 2831 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 28-37 and 48 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 8 and 9 of U.S. Patent No. 7,019,217 in view of Berndt et al. (2,166,458). Patent '217 discloses a collet, a collet housing, an implement, a connecting element, and an aluminum housing. Patent '217 does not disclose the lumen having a length and a

substantially constant interior radius along the length nor the collet not being forcibly pulled through the second end of the collet housing. Berndt et al. (FIG. 3, col. 2, lines 20-23) discloses a fitting comprising a collet (15) having a lumen (16) with a length and a substantially constant interior radius along the length and the collet not being forcibly pulled through the second end of a collet housing (collet 15 not being pulled through collet housing 12). It would have been obvious to one skilled in the art to provide the lumen of Patent '217 with a substantially constant interior radius along the length and to keep the collet within the collet housing as taught by Berndt et al. to provide smooth contact between the collet and the core and to keep the core within the collet housing.

3. Claims 38-43, 45-47, 49 and 50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 36 and 39-41 of copending Application No. 11/306,951. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 36 and 39-41 of said copending application disclose the claimed invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claim 44 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 36 and 41 of copending Application No. 11/306,951 in view of Seufert et al. (1,539,962). Claims 36 and 41 of said copending application disclose the invention substantially as claimed except for an aluminum housing disposed over the fitting. Seufert et al. discloses a fitting comprising a housing (11) disposed over the fitting to carry electricity over the fitting. It would have been obvious to one skilled in the art to dispose a housing over the fitting '951 to carry electricity over the fitting as taught by Seufert et al. It would also have been obvious to one skilled in the art to use aluminum for said housing of '951 since aluminum is a known material for being used as housing material and known for its highly conductivity.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

5. Applicant's arguments with respect to claims 28, 38 and 45 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N. Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutiérrez can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/595,428
Art Unit: 2831

Page 6

/Chau N Nguyen/
Chau N Nguyen
Primary Examiner
Art Unit 2831